

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

KEITH ALAN LASKO,

Plaintiff,

vs.

AMERICAN BOARD OF SURGERY,
 INC., et al.,

Defendants.

Case No. 2:13-cv-01893-JAD-NJK

**Order Granting Joint Motion
 to Stay Discovery [Docs. 113, 114]**

Pending before the Court is a joint motion to stay discovery, filed by Defendants The American Board of Surgery, Incorporated, Joseph B. Cofer, David M. Mahvi, Frank R. Lewis, Jr., Jo Buyske, Mark A. Malangoni, Gabriel L.I. Bevilacqua, and Saul Ewing LLP. Docket No. 113. Defendants ask this Court to stay discovery pending resolution of their two motions to dismiss. *Id.* Defendants filed the instant motion on May 12, 2014. *Id.* On the same day, Defendant American Board of Internal Medicine filed a joinder to the joint motion to stay discovery. Docket No. 114.

Local Rule 7-2(b) provides that “[u]nless otherwise ordered by the Court, points and authorities in response [to a motion] shall be filed and served by an opposing party fourteen (14) days after service of the motion.” Therefore, Plaintiff’s response was due no later than May 29, 2014. To date, no response has been filed. Accordingly, the motion may be granted as unopposed. *See* Local Rule 7-2(d). Additionally, the Court has reviewed the motion and finds that good cause exists to grant it.

“The Federal Rules of Civil Procedure do not provide for automatic or blanket stays of discovery when a potentially dispositive motion is pending.” *Tradebay, LLC v. eBay, Inc.*, 278 F.R.D. 597, 601

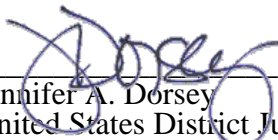
1 (D. Nev. 2011). The case law in this District makes clear that requests to stay all discovery may be
2 granted when: (1) the pending motion is potentially dispositive; (2) the potentially dispositive motion
3 can be decided without additional discovery; and (3) the Court has taken a “preliminary peek” at the
4 merits of the potentially dispositive motion and is convinced that Plaintiff will be unable to state a claim
5 for relief. *Id.* at 602–03.

6 The Court finds these factors are present here. First, Defendants’ motions to dismiss are
7 potentially case-dispositive as to all claims against them. Second, the motions to dismiss can be decided
8 without additional discovery. Third, the Court has taken a preliminary peek at the merits of the motions
9 to dismiss¹ and believes that Plaintiff will be unable to state a claim for relief in this District against
10 Defendants.

11 Accordingly, Defendants’ joint motion to stay discovery pending resolution of their motions to
12 dismiss and joinder [Docs. 113 and 114] are hereby **GRANTED**. In the event the motions to dismiss
13 are not granted in full, the parties shall submit a joint proposed discovery plan and scheduling order to
14 the undersigned within 7 days of the issuance of the order resolving the motions.

15 **IT IS SO ORDERED.**

16 DATED June 9, 2014.

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19 Jennifer A. Dorsey
United States District Judge
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